

Permitting & Assistance Branch Staff Report

Revised Solid Waste Facilities Permit for the

Harvest Power California, LLC

SWIS No. 54-AA-0026

August 5, 2014

Background Information, Analysis, and Findings:

This report was developed in response to the Tulare County Environmental Health Local Enforcement Agency's (LEA) request for the Department of Resources Recycling and Recovery (Department) concurrence on the issuance of a proposed revised Solid Waste Facilities Permit (SWFP) for Harvest Power California, LLC, changing the facility name from Tulare County Compost and Biomass, SWIS No. 54-AA-0026, located in the unincorporated area of the City of Tulare, owned by the Shannon Trust A&B and operated by Harvest Power California, LLC. A copy of the proposed permit is attached. This report contains Permitting & Assistance Branch staff's analysis, findings, and recommendations.

The proposed permit was initially received on June 30, 2014. A new proposed permit was received on August 5, 2014. Action must be taken on this permit no later than October 4, 2014. If no action is taken by October 4, 2014, the Department will be deemed to have concurred with the issuance of the proposed revised SWFP.

Proposed Changes:

The following changes to the first page of the permit are being proposed:

	Current Permit (2008)	Proposed Permit
Name of Facility	Tulare County Compost & Biomass, Inc.	Harvest Power California, LLC
Name of Operator	Tulare County Compost & Biomass, Inc.	Harvest Power California, LLC
Permitted Maximum Tonnage	500 tons per day	1,000 tons per day
Permitted Traffic Volume	85 vehicles per day	110 vehicles per day

Other Changes include:

- Revisions to the following sections of the SWFP: "Findings," documents that describe and/or restrict the operation of the facility, "Self Monitoring" and "LEA Conditions" including the rewording, additions and/or deletions for the purpose of updating and/or clarifying; and
- A new Report of Composting Site Information, dated January 2014.

Key Issues:

The proposed permit will allow for the following:

1. Name of Facility and Operator change from Tulare County Compost and Biomass to Harvest Power California, LLC;
2. Increase in tonnage from 500 tons per day (tpd) to 1,000 tpd;
3. Increase in traffic from 85 vehicles per day to 110 vehicles per day; and
4. The receipt of anaerobic digester digestate, and an increase in the volume of food waste as compostable material.

Background:

The proposed revision will allow the operator to take in anaerobic digester digestate, and an increase in the volume of food waste to be windrow composted. Eventually, the facility will build and permit an Anaerobic Digester (AD) to be used onsite as well. The increase in tonnage and traffic will allow them to take more material now, and for the future AD operation.

Findings:

Staff recommends concurrence in the issuance of the proposed revised SWFP. All of the required submittals and findings required by Title 27 of the California Code of Regulations (27 CCR), Section 21685, have been provided and made. Staff has determined that the California Environmental Quality Act (CEQA) requirements have been met to support concurrence. The findings that are required to be made by the Department when reaching a determination are summarized in the following table. The documents on which staff's findings are based have been provided to the Branch Chief with this Staff Report and are permanently maintained by the Waste Permitting, Compliance, and Mitigation Division.

27 CCR Sections	Findings	
21685(b)(1) LEA Certified Complete and Correct Report of Facility Information	The LEA provided the required certification in their permit submittal letter dated June 27, 2014	<input checked="" type="checkbox"/> Acceptable <input type="checkbox"/> Unacceptable
21685(b)(2) LEA Five Year Permit Review	A Permit Review Report was prepared by the LEA on November 14, 2013. The LEA provided a copy to the Department on December 5, 2013.	<input checked="" type="checkbox"/> Acceptable <input type="checkbox"/> Unacceptable
21685(b)(3) Solid Waste Facility Permit	Staff received a proposed Solid Waste Facilities Permit on August 5, 2014.	<input checked="" type="checkbox"/> Acceptable <input type="checkbox"/> Unacceptable
21685 (b)(4)(A) Consistency with Public Resources Code 50001	The LEA in their permit submittal package received on June 30, 2014, provided a finding that the facility is consistent with PRC 50001. Waste Evaluation & Enforcement Branch (WEEB) staff in the Jurisdiction Product & Compliance Unit found the facility is identified in the Nondisposal Facility Element, as described in their memorandum dated July 28, 2014.	<input checked="" type="checkbox"/> Acceptable <input type="checkbox"/> Unacceptable

27 CCR Sections	Findings	
21685(b)(8) Operations Consistent with State Minimum Standards	WEEB staff in the Inspections and Enforcement Agency Compliance Unit found that the facility was in compliance with all operating and design requirements during an inspection conducted on April 15, 2014. See Compliance History below for details.	<input checked="" type="checkbox"/> Acceptable <input type="checkbox"/> Unacceptable
21685(b)(9) LEA CEQA Finding	The LEA provided a finding in their permit submittal package received on June 30, 2014, that the proposed permit is consistent with and supported by the existing CEQA documentation. See the Environmental Analysis below for details.	<input checked="" type="checkbox"/> Acceptable <input type="checkbox"/> Unacceptable
21650(g)(5) Public Notice and/or Meeting, Comments	A Public Informational Meeting was held by the LEA on June 25, 2014. No written comments were received by LEA. See Public Comments section below for details.	<input checked="" type="checkbox"/> Acceptable <input type="checkbox"/> Unacceptable
CEQA Determination to Support Responsible Agency's Findings	The Department is a responsible agency under CEQA with respect to this project. Permitting and Assistance Branch staff has determined that the CEQA record can be used to support the Branch Chief's action on the proposed revised SWFP.	<input checked="" type="checkbox"/> Acceptable <input type="checkbox"/> Unacceptable

Compliance History:

WEEB staff in the Inspections and Enforcement Agency Compliance Unit conducted a pre-permit inspection on April 15, 2014 and found that the facility is in compliance with applicable state minimum standards and permit conditions.

Below are the details of the facility's compliance history based on the LEA's monthly inspection reports during the last five years:

- 2014 – 2009 - No violations were noted.

Environmental Analysis:

Under CEQA, the Department must consider, and avoid or substantially lessen where possible, any potentially significant environmental impacts of the proposed SWFP before the Department concurs in it. In this case, the Department is a Responsible Agency under CEQA and must utilize the environmental document prepared by the Tulare County Resource Management Agency, acting as Lead Agency, absent changes in the project or the circumstances under which it will be carried out that justify the preparation of additional environmental documents and absent significant new information about the project, its impacts and the mitigation measures imposed on it.

The changes that will be authorized by the issuance of the proposed permit include: increase the tonnage from 500 tons per day (tpd) to 1,000 tpd; increase the traffic volume from 85 vehicles per day (vpd) to 110 vpd; and allow for the receipt of anaerobic digester digestate, and an increase in the volume of food waste.

A Draft Environmental Impact Report (EIR), State Clearinghouse No. 2012101010, was circulated for a 30 day comment period (shortened review period) from March 7, 2013 to April 5, 2013. The Draft EIR identified significant and unavoidable odor impacts. The Final EIR, together with the Statement of Overriding Considerations, was certified/adopted by the Lead Agency on May 8, 2013.

The Lead Agency determined that the project benefits outweigh the adverse environmental impacts. The benefits from the project will include:

- Implementation of AB 32;
- General Plan goals – Climate Action Plan goals met;
- Provide renewable energy;
- Expand production of organically certified soil;
- Increase business operations in Tulare County; and
- Implement Countywide General Plan policies.

Statement of Overriding Considerations:

Because all of the project's impacts cannot be avoided or substantially reduced, before concurring on the issuance of the proposed permit, the Department must adopt a Statement of Overriding Considerations that indicates its reasons for overriding the adverse environmental effects caused by the proposed project. It is Department staff's recommendation that the Department adopt as its own, the Statement of Overriding Considerations as adopted by Lead Agency to the extent the unavoidable significant environmental effects of the Project identified in the Statement of Overriding Considerations relate to environmental effects caused by the Department's exercise of its statutory authority.

Department staff further recommends the Final EIR, with all other CEQA documents certified/adopted by the Lead Agency, and with the inclusion of the Statement of Overriding Considerations, is adequate for the Branch Chief's environmental evaluation of the proposed project for those project activities which are within the Department's expertise and/or powers, or which are required to be carried out or approved by the Department.

The Tulare County Environmental Health Department has provided a finding that the proposed revised SWFP is consistent with and supported by the cited environmental document.

Staff recommends that the Department, acting as a Responsible Agency under CEQA, utilize the Final EIR as prepared by the Lead Agency in that there are no grounds under CEQA for the Department to prepare a subsequent or supplemental environmental document or assume the role of Lead Agency for its consideration of the proposed revised SWFP.

The administrative record for the decision to be made by the Department includes the administrative record before the LEA, the proposed revised SWFP and all of its components and supporting documentation, this staff report, the Final EIR adopted by the Lead Agency, and other documents and materials utilized by the Department in reaching its decision on concurrence in, or objection to, the proposed revised SWFP. The custodian of the Department's administrative

record is Dona Sturgess, Legal Office, Department of Resources Recycling and Recovery, P.O. Box 4025, Sacramento, CA 95812-4025.

Public Comments:

The project document availability, hearings, and associated meetings were noticed consistent with the SWFP requirements. The LEA held a public informational meeting on June 25, 2014, at the Claude Meitzenheimer Community Center, in the City of Tulare. One member of the public was in attendance. No oral or written comments were received by the LEA.

Department staff provided an opportunity for public comment during the CalRecycle Monthly Public Meeting on July 15, 2014. No comments have been received by Department staff.